

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No.: 12-26(02) (JRT/JSM)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	PLEA AGREEMENT AND
	)	SENTENCING STIPULATIONS
v.	)	
	)	
2. SHAUN MICHAEL MARTINEZ,	)	
a/k/a Tinez,	)	
	)	
Defendant.	)	

Pursuant to Fed. R. Crim. P. 11(c)(1)(A) and (C), the United States of America and the Defendant, SHAUN MICHAEL MARTINEZ ("Defendant"), agree to resolve this case on the following terms and conditions. This plea agreement binds only the Defendant and the United States Attorney's Office for the District of Minnesota. It does not bind any other United States Attorney's Office or any other federal or state agency<sup>1</sup>.

1. **Charges.** The Defendant agrees to plead guilty, pursuant to Fed. R. Crim. P. 11(c)(1)(C), to Count 51 of the Superseding Indictment, which charges the Defendant with Murder Resulting from the Use and Carrying of a Firearm During and in Relation to a Crime of Violence, in violation of Title 18,

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<sup>1</sup>The undersigned, however, has confirmed in writing that the Hennepin County Attorney's Office has agreed not to prosecute the defendant for the murder of Jereme Kraskey in the event he pleads guilty and is sentenced pursuant to this agreement.

United States Code, Section 924(j). In exchange for the Defendant's plea to Count 51 of the Superseding Indictment, the Government will, at sentencing, dismiss the remaining charges contained in the Superseding Indictment relating to the Defendant.

2. **Factual Basis.** It is stipulated that Count 51 of the Superseding Indictment is true and that the Defendant is guilty of the charge of Murder Resulting from the Use and Carrying of a Firearm During and in Relation to a Crime of Violence. The Defendant agrees that the following is true:

a. From in or about the mid-1990's until the present, persons known and unknown formed an enterprise that operated in the United States, including in the State and District of Minnesota. The members of the enterprise engaged in a criminal conspiracy, the object of which was to conduct or participate in the enterprise's affairs through a pattern of racketeering activity.

b. The enterprise was known as the "Native Mob," an association in fact. The Defendant stipulates that the Native Mob shared a common purpose, had a continuity of structure and personnel, and had structure that was distinct from that inherent in the racketeering activity in which it engaged.

c. The manner and means of this conspiracy was as follows: it was part of the conspiracy that the defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

d. It was further part of the manner and the means of the conspiracy that the defendant, as a member of the Native Mob, would regularly meet as required with other Native Mob gang members to discuss, among other things, past acts of violence and other crimes committed by gang members against rival gang members and others; to notify one another about gang members who were arrested or incarcerated; to discuss the disciplining of Native Mob gang members; to discuss police interactions with gang members; to share with one another the identities of individuals who may be cooperating with law enforcement and propose actions to be taken against those individuals; to plan and agree upon the commission of future crimes, including drug-trafficking, murders, robberies, and assaults; and to reinforce gang rules and by-laws.

e. It was further part of the conspiracy that the members and associates of Native Mob agreed to purchase,

maintain and circulate a collection of firearms for use in criminal activity by Native Mob members.

f. It was further part of the manner and the means of the conspiracy that the defendant agreed that acts of violence, including murder and attempted murder, would be committed by members and associates of Native Mob against rival gang members and to impose discipline within Native Mob itself, and on other occasions as deemed necessary.

g. It was further part of the manner and means of the conspiracy that the defendant agreed that members and associates of Native Mob would commit robberies, assaults, drive-by shootings, and other crimes, and would conceal their criminal activities and obstruct justice, including by threatening witnesses.

h. The Defendant admits that he joined the Native Mob in or about 2000. The Defendant admits that he agreed that some conspirator would commit at least two (2) acts of racketeering activity designated in Title 18 U.S.C. Section 1961(1). The Defendant admits that the enterprise alleged in Count 1 of the Superseding Indictment existed, that the enterprise affected interstate commerce, that he was associated

with the enterprise, and that he agreed to participate in the affairs of the enterprise.

i. The Defendant admits that on or about February 26, 2011, he committed Murder Resulting from the Use and Carrying of a Firearm During and in Relation to a Crime of Violence, to wit, a Conspiracy to Participate in Racketeering Activity as alleged in Count 1 of the Superseding Indictment. The Defendant admits that in or about February of 2011, he developed a suspicion that a fellow Native Mob member, Jeremee Kraskey (hereinafter "the victim"), was or would become an informant for state and federal law enforcement investigating the criminal activities of the enterprise. The Defendant admits that during the evening hours of February 25, 2011, other conspirators, against whom the defendant refuses to testify, lured the victim from Cass Lake to Martinez' home at 3631 33<sup>rd</sup> Ave. South in Minneapolis in order to facilitate the commission of the murder. The Defendant admits that in the early morning hours of February 26, 2011, he drove the victim from 3631 33<sup>rd</sup> Ave. South to the backyard of 3520 14<sup>th</sup> Avenue South, Minneapolis, in the District of Minnesota, where, using a firearm, he shot the victim three times, killing him. The Defendant admits that he fled the area and thereafter disposed

of evidence from the murder. The Defendant admits that he intentionally killed the victim in an effort to prevent the victim from assisting law enforcement in their investigation of the Native Mob.

j. The Defendant admits that the killing of the victim was unlawful, was committed with malice aforethought, and was both deliberate and premeditated. The Defendant further admits that he acted voluntarily and not under coercion or duress.

3. **Statutory Penalties.** The Defendant understands that the maximum punishment for this offense is as follows:

- a. a sentence of life imprisonment;
- b. a term of supervised release of up to 5 years;
- c. a fine of \$250,000;
- d. a mandatory special assessment of \$100; and
- e. payment of mandatory restitution in an amount to be determined by the Court.

4. **Revocation of Supervised Release.** The Defendant understands that if the Defendant were to violate any condition of supervised release, the Defendant could be sentenced to an additional term of imprisonment up to the length of the original supervised release term, subject to the statutory maximums set forth in 18 U.S.C. § 3583.

5. **Base Offense Level.** Pursuant to U.S.S.G. § 2A1.1(a), the parties agree that the base offense level is 43, the base offense level applicable to the crime of First Degree Murder.

6. **Specific Offense Characteristics.** It is the position of the parties that no specific offense characteristics apply.

7. **Adjustments.** The parties agree that none of the adjustments set forth in Chapter 3 apply.

8. **Acceptance of Responsibility.** The government will recommend that the Defendant receive a three level credit for acceptance of responsibility provided that: (1) he testifies truthfully during the change of plea hearing, (2) he cooperates with the Probation Office in the pre-sentence investigation, and (3) commits no further acts inconsistent with acceptance of responsibility. In the event the Defendant commits acts inconsistent with acceptance of responsibility prior to sentencing (e.g. commit any state or federal crime while awaiting sentencing or testify falsely in any related hearing), the government reserves the right to withdraw from this plea agreement, at which time all trial rights of both parties would then be restored.

9. **Criminal History Category.** Based on information available at this time, the parties believe that the Defendant has a criminal history category of III. This does not constitute a stipulation, but is a belief based on an assessment of the information currently known. The Defendant's actual criminal history and related status will be determined by the Court based on the information presented in the Presentence Report and by the parties at the time of sentencing. The Defendant understands that all applicable prior adult or juvenile history will be included in the PSR and used to calculate the appropriate Sentencing Guidelines.

10. **Guideline Calculations.** If the Defendant receives a 3-level reduction for acceptance of responsibility, the offense level is decreased to 40 ( $43-3=40$ ). At a Category III criminal history, the Defendant's Guideline Range is 360 months to life imprisonment. Under Section 5D1.2, the term of supervised release may be up to life.

11. **Stipulated Term of Imprisonment.** Based on the facts and circumstances in this case, the United States and the Defendant agree that, pursuant to Fed. R. Crim. P. 11(c)(1)(C), a 43-year sentence (516 months) is appropriate after consideration of the sentencing factors set forth in 18 U.S.C. §



3553(a). Both parties shall advocate a sentence of 43 years at sentencing. By accepting this Plea Agreement, the Court agrees to sentence the Defendant to 43 years of imprisonment. If the Court declines to accept the Plea Agreement, the agreement is null and void and the parties are free to proceed to trial on the Superseding Indictment. The parties understand that there will be no cooperation from the defendant in this matter and thus no motions relating to substantial assistance are anticipated by either party.

12. **Fine Range.** If the offense level is 40, the fine range is \$25,000 - \$250,000.

13. **Special Assessment.** The Guidelines require payment of a special assessment in the amount of \$100.00 for each felony count of which the defendant is convicted (U.S.S.G. § 5E1.3). The Defendant agrees to pay the special assessment of \$100.00 prior to sentencing.

Date:

B. TODD JONES  
United States Attorney

BY: ANDREW R. WINTER  
Assistant U.S. Attorney  
Attorney ID No. 0232531

Date:

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SHAUN MICHAEL MARTINEZ  
Defendant

Date:

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JOHN M. HOPEMAN, ESQ.  
Counsel for Defendant

Date:

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PAUL DWORAK, ESQ.  
Counsel for Defendant